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RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Third Committee (A/51/619/Add.3 and Corr.1)]

51/116. Situation of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and all other human rights instruments and instruments of international humanitarian law, including the Geneva Conventions of 12 August 1949[3] for the protection of victims of war and the Additional Protocols thereto, of 1977,[4] as well as the principles and commitments undertaken by participating States of the Organization for Security and Cooperation in Europe,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil their obligations under the human rights instruments to which they are party, and reaffirming also the obligation of all to respect international humanitarian law,

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[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] United Nations, Treaty Series, vol. 75, Nos. 970-973.

[4] Ibid., vol. 1125, Nos. 17512 and 17513.

Reaffirming also the territorial integrity of all States in the region, within their internationally recognized borders,

Welcoming the entry into force and implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto, initialled at Dayton, Ohio, on 21 November 1995 and signed by Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), representing also the Bosnian Serb party, in Paris on 14 December 1995 (collectively the "Peace Agreement"),[5] which, inter alia, committed the parties in Bosnia and Herzegovina to respect fully human rights,

Welcoming also the efforts of Member States in assisting in the implementation of the Peace Agreement through their participation in the Implementation Force and other activities directed at resolving the conflicts in the former Yugoslavia, and commending the Organization for Security and Cooperation in Europe for the implementation of the mandates with which it was entrusted by the Peace Agreement,

Welcoming further the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium (the "Basic Agreement"),[6] signed on 12 November 1995 by the Government of the Republic of Croatia and the local Serb representatives, which created conditions permitting the establishment of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, and Security Council resolution 1037 (1996) of 15 January 1996, by which the Council established the Transitional Administration,

Welcoming the participation of Member States in the Transitional Administration and other activities intended to facilitate implementation of the Basic Agreement and the transition of the region of Eastern Slavonia, Baranja and Western Sirmium from local Serb control to control by the Republic of Croatia,

Recognizing the positive effects that the implementation of the Peace Agreement and the Basic Agreement have had on the region since their respective entry into force, in particular the return of peace to the region and the increasing normalization of social, political and economic life,

Taking note of the Agreement on Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and

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[5] See A/50/790-S/1995/999; see Official Records of the Security Council, Fiftieth Year, Supplement for October, November and December 1995, document S/1995/999.

[6] See A/50/757-S/1995/951; see Official Records of the Security Council, Fiftieth Year, Supplement for October, November and December 1995, document S/1995/951.

Montenegro),[7] in particular article 7 thereof, which, inter alia, ensures conditions for the return of refugees and displaced persons and the return of their property or a just compensation, and in that context stressing the positive impact of mutual recognition agreements among successor States of the former Yugoslavia,

Welcoming the holding of elections in Bosnia and Herzegovina on 14 September 1996 with the assistance of the Organization for Security and Cooperation in Europe and other organizations,

Gravely concerned nonetheless at the continuing evidence of violations of human rights and fundamental freedoms taking place in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro),

Stressing the importance of an effective functioning of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established pursuant to Security Council resolutions 808 (1993) of 22 February 1993 and 827 (1993) of 25 May 1993, for the positive development of the situation of human rights in the region,

Acknowledging the progress made by the Federation of Bosnia and Herzegovina towards ethnic reconciliation in the region,

Calling upon all parties to the Peace Agreement to implement the necessary measures in the furtherance of ethnic reconciliation in their respective territories,

Encouraging the international community, acting through the United Nations and other international organizations as well as bilaterally, to enhance significantly humanitarian support for the people of the region and to promote human rights, economic reconstruction, the repatriation of refugees and the holding of free elections in Bosnia and Herzegovina,

Welcoming the efforts of the European Union to promote respect for human rights and fundamental freedoms, and endorsing the recommendation of the Special Rapporteur that economic and other aid must be made conditional on meaningful progress on human rights,

Underlining the relationship between the fulfilment by the parties of their human rights commitments and the readiness of the international community to commit resources for reconstruction and development,

Dismayed by the large number of missing persons still unaccounted for, particularly in Bosnia and Herzegovina and in the Republic of Croatia, and noting with approval the establishment of the International Commission on Missing Persons in the Former Yugoslavia and the efforts of the expert member of the Working Group on Enforced or Involuntary Disappearances and of the working and expert groups on the missing, chaired respectively by the International Committee of the Red Cross and the High Representative,

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[7] A/51/318-S/1996/706, annex, and A/51/351-S/1996/744, annex; see Official Records of the Security Council, Fifty-first Year, Supplement for July, August and September 1996, documents S/1996/706 and S/1996/744.

Expressing its particular concern for the situation of women and also that of children, the elderly and refugees, internally displaced persons and minorities, as well as other vulnerable groups in the region,

Calling attention to the reports and recommendations of the Special Rapporteur of the Commission on Human Rights, Mrs. Elisabeth Rehn, on the situation of human rights in the territories of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), including her most recent reports of 4 November 1996[8] and 12 November 1996,[9] and especially the recommendations set forth therein,

Acknowledging efforts made by the Governments of the region to meet the recommendations of the Special Rapporteur, which have yet to be implemented fully,

Recalling the report on the situation of human rights in Croatia[10] submitted to the Security Council in pursuance of Council resolution 1019 (1995) of 9 November 1995,

Recalling also its resolutions 50/192 and 50/193 of 22 December 1995, Commission on Human Rights resolution 1996/71 of 23 April 1996[11] and all relevant resolutions of the Security Council, especially resolutions 1009 (1995) of 10 August 1995 and 1079 (1996) of 15 November 1996,

1. Expresses its serious concern about continuing human rights violations within Bosnia and Herzegovina and the delays in fully implementing the human rights provisions of the Peace Agreement;

2. Condemns in the strongest terms the continued forcible expulsion of individuals from their homes in Bosnia and Herzegovina, such as has happened recently in Banja Luka and Mostar, and the practice of destroying the homes of those previously forcibly expelled, and calls for the immediate arrest and punishment of individuals engaged in these actions;

3. Condemns the continuing restrictions on freedom of movement within the Republika Srpska, within some parts of the Federation of Bosnia and Herzegovina, and between the Republika Srpska and the Federation;

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[8] A/51/651-S/1996/902, annex; see Official Records of the Security Council, Fifty-first Year, Supplement for October, November and December 1996, document S/1996/902.

[9] A/51/663-S/1996/927, annex; see Official Records of the Security Council, Fifty-first Year, Supplement for October, November and December 1996, document S/1996/927.

[10] Official Records of the Security Council, Fifty-first Year, Supplement for July, August and September 1996, document S/1996/691.

[11] See Official Records of the Economic and Social Council, 1996, Supplement No. 3 (E/1996/23), chap. II, sect. A.

4. Expresses concern for women and children, especially in Bosnia and Herzegovina, who were victims of rape used as a weapon of war, and calls for the perpetrators of rape to be brought to justice while ensuring that victims and witnesses receive adequate assistance and protection;

5. Insists that all parties implement fully the commitments made in the Peace Agreement to protect human rights, and also insists that the parties act to promote and protect democratic institutions of government at all levels in their respective countries, to ensure freedom of expression and of the media, to allow and encourage freedom of association, including with respect to political parties, and to ensure freedom of movement and that the parties in Bosnia and Herzegovina comply with the human rights provisions of their national Constitution;

6. Welcomes the conclusions of the meeting of the ministerial Steering Board and the Presidency of Bosnia and Herzegovina,[12] held in Paris on 14 November 1996, in order to define the guiding principles of the civilian consolidation plan of the peace process in Bosnia and Herzegovina, in particular in the field of human rights;

7. Calls upon the participants in the Peace Implementation Meeting, to be held in London on 6 December 1996, to ensure that the promotion of human rights, including the fulfilment of their respective human rights obligations by the parties to the Peace Agreement, as well as the strengthening of national institutions, will be a central element in the new civilian structure implementing the Peace Agreement;

8. Calls upon the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to undertake substantially greater efforts to institute democratic norms, especially in regard to the protection of free and independent media, and full respect for human rights and fundamental freedoms;

9. Strongly urges the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to revoke all discriminatory legislation and to apply all other legislation without discrimination and to take urgent action to prevent arbitrary evictions and dismissals and discrimination against any ethnic or national, religious or linguistic group;

10. Urgently demands that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) take immediate action to put an end to the repression of, and to prevent violence against, non-Serb populations in Kosovo, including acts of harassment, beatings, torture, warrantless searches, arbitrary detention and unfair trials, and also to respect the rights of persons belonging to minority groups in the Sandjak and Vojvodina and of persons belonging to the Bulgarian minority;

11. Calls upon the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to act immediately to allow all residents in Kosovo to participate freely and fully in the political, economic, social and cultural life of the region, particularly in the areas of education and health care, and to ensure that all the residents of the region are guaranteed equal treatment and protection regardless of ethnic affiliation;

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[12] Official Records of the Security Council, Fifty-first Year, Supplement for October, November and December 1996, document S/1996/968.

12. Calls upon the Government of the Republic of Croatia to fully respect human rights and fundamental freedoms, including the rights of persons belonging to any national, ethnic, religious or linguistic minority;

13. Also calls upon the Government of the Republic of Croatia to undertake greater efforts to adhere to democratic norms, especially in regard to the Zagreb city council and the protection of free and independent media, and to cooperate fully with the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium to assure that the reintegration of Eastern Slavonia occurs peacefully and with respect for the human rights of all residents and returning displaced persons and refugees, including their right to remain, leave or return in safety and dignity;

14. Calls for the full and consistent implementation of the Peace Agreement and the Basic Agreement by all the parties to them;

15. Urges all the parties to the Peace Agreement to create the necessary political, social and economic conditions for the return of refugees and displaced persons in safety and dignity;

16. Insists that all authorities in Bosnia and Herzegovina cooperate fully with the Commission on Human Rights for Bosnia and Herzegovina, created under annex 6 of the Peace Agreement, in particular by providing information requested by the Human Rights Ombudsman and by participating in hearings before the Human Rights Chamber, and demands that the Republika Srpska cease its pattern of non-cooperation with the Commission;

17. Calls upon the Commission on Human Rights for Bosnia and Herzegovina to intensify its activities concerning alleged or apparent violations of human rights, or alleged or apparent discrimination of any kind;

18. Welcomes the commitments of the international community for post-war reconstruction and development assistance, and encourages the expansion of this assistance, while noting that such assistance should be conditioned on full compliance by the parties with agreements that have been made;

19. Urges the parties to create the necessary conditions for free and fair municipal elections to be held as soon as possible and as envisaged in the Peace Agreement, under the supervision of the Organization for Security and Cooperation in Europe;

20. Welcomes the enactment by the Republic of Croatia on 20 September 1996 of a new general amnesty law, intended in part to promote confidence on the part of the local Serb population, and calls for the proper implementation of that law;

21. Calls upon the Government of the Republic of Croatia to allow the expeditious return of all refugees and displaced persons and to use all available means to secure their safety and human rights, and to investigate and arrest those responsible for acts of violence and intimidation aimed at driving people away;

22. Strongly condemns the continuing refusal of the authorities of the Republika Srpska, the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), certain other elements within the Federation and to some extent the Government of the Republic of Croatia to arrest and surrender

indicted war criminals known to be present in their territories, as they have agreed to do under the Peace Agreement;

23. Urgently calls upon all States and all parties to the Peace Agreement to meet their obligations to cooperate fully with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, as required by Security Council resolution 827 (1993), including with respect to surrendering persons sought by the International Tribunal, and urges all States and the Secretary-General to support the Tribunal to the fullest extent possible, in particular, by helping to ensure that persons indicted by the Tribunal stand trial before it;

24. Demands that the Government of Bosnia and Herzegovina, in particular the authorities of the Republika Srpska, and the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) ensure full and free access to their territories to all institutions and organizations concerned with the implementation of the present resolution, including non-governmental organizations;

25. Welcomes the interim reports[8,9] of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territories of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and commends the Special Rapporteur and the Human Rights Field Operation in the former Yugoslavia for their continuing efforts;

26. Urges all parties to implement fully the recommendations of the Special Rapporteur of the Commission on Human Rights;

27. Calls upon the authorities of the States and entities within the mandate of the Special Rapporteur to cooperate with her and to provide her on a regular basis with information about the actions they are taking to implement her recommendations;

28. Reaffirms, as recommended previously by the Special Rapporteur, that major reconstruction aid must be made conditional on demonstrated respect for human rights, emphasizes in that context the necessity of cooperation with the International Tribunal, and welcomes in this regard the conclusions of the meeting of the ministerial Steering Board and the Presidency of Bosnia and Herzegovina,[12] held in Paris on 14 November 1996;

29. Welcomes the efforts of the Organization for Security and Cooperation in Europe, the Council of Europe, the European Community Monitoring Mission and the United Nations High Commissioner for Human Rights in monitoring and strengthening the respect for human rights and fundamental freedoms in Bosnia and Herzegovina and the region;

30. Calls upon the parties to the Peace Agreement to take immediate steps to determine the identity, the whereabouts and the fate of missing persons, in particular near Srebrenica, Žepa, Prijedor, Sanski Most and Vukovar, including through close cooperation with the International Commission on Missing Persons in the Former Yugoslavia, other international humanitarian organizations and independent experts, and commends the work undertaken by the expert member of the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights, the Special Rapporteur, the Working Group

on the Process for Tracing Persons Unaccounted For, chaired by the International Committee of the Red Cross, and the Expert Group on Exhumation and Missing Persons, chaired by the High Representative, and stresses the importance of coordinating work in this area;

31. Encourages all Governments to respond favourably to appeals for voluntary contributions for the benefit of the Commission on Human Rights for Bosnia and Herzegovina, the Commission for Real Property Claims of Displaced Persons and Refugees for Bosnia and Herzegovina, the International Commission on Missing Persons in the Former Yugoslavia, the United Nations High Commissioner for Human Rights/Centre for Human Rights and other institutions of reconciliation, democracy and justice in the region;

32. Decides to continue its examination of this question at its fifty-second session under the item entitled "Human rights questions".

82nd plenary meeting
12 December 1996